

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for Senate Bill No. 24, Page 29, Section 143.145, Line 78, by  
2 inserting after all of said section and line the following:

3  
4 "143.451. 1. Missouri taxable income of a corporation shall include all income derived from  
5 sources within this state.

6 2. A corporation described in subdivision (1) of subsection 1 of section 143.441 shall include  
7 in its Missouri taxable income all income from sources within this state, including that from the  
8 transaction of business in this state and that from the transaction of business partly done in this state  
9 and partly done in another state or states. However:

10 (1) Where income results from a transaction partially in this state and partially in another  
11 state or states, and income and deductions of the portion in the state cannot be segregated, then such  
12 portions of income and deductions shall be allocated in this state and the other state or states as will  
13 distribute to this state a portion based upon the portion of the transaction in this state and the portion  
14 in such other state or states.

15 (2) The taxpayer may elect to compute the portion of income from all sources in this state in  
16 the following manner, or the manner set forth in subdivision (3) of this subsection:

17 (a) The income from all sources shall be determined as provided, excluding therefrom the  
18 figures for the operation of any bridge connecting this state with another state.

19 (b) The amount of sales which are transactions wholly in this state shall be added to one-half  
20 of the amount of sales which are transactions partly within this state and partly without this state, and  
21 the amount thus obtained shall be divided by the total sales or in cases where sales do not express the  
22 volume of business, the amount of business transacted wholly in this state shall be added to one-half  
23 of the amount of business transacted partly in this state and partly outside this state and the amount  
24 thus obtained shall be divided by the total amount of business transacted, and the net income shall be  
25 multiplied by the fraction thus obtained, to determine the proportion of income to be used to arrive at  
26 the amount of Missouri taxable income. The investment or reinvestment of its own funds, or sale of  
27 any such investment or reinvestment, shall not be considered as sales or other business transacted for  
28 the determination of said fraction.

29 [(3)] (c) For the purposes of this [section] subdivision, a transaction involving the sale of  
30 tangible property is:

31 [(a)] a. "Wholly in this state" if both the seller's shipping point and the purchaser's  
32 destination point are in this state;

33 [(b)] b. "Partly within this state and partly without this state" if the seller's shipping point is  
34 in this state and the purchaser's destination point is outside this state, or the seller's shipping point is  
35 outside this state and the purchaser's destination point is in this state;

36 [(c)] c. Not "wholly in this state" or not "partly within this state and partly without this state"  
37 only if both the seller's shipping point and the purchaser's destination point are outside this state[;] .

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

- 1 (d) For purposes of this subdivision;
- 2 a. The purchaser's destination point shall be determined without regard to the FOB point or
- 3 other conditions of the sale[,] ; and
- 4 b. The seller's shipping point is determined without regard to the location of the seller's
- 5 principle office or place of business.
- 6 (3) The taxpayer may elect to compute the portion of income from all sources in this state in
- 7 the following manner:
- 8 (a) The income from all sources shall be determined as provided, excluding therefrom the
- 9 figures for the operation of any bridge connecting this state with another state;
- 10 (b) The amount of sales which are transactions in this state shall be divided by the total sales,
- 11 and the net income shall be multiplied by the fraction thus obtained, to determine the proportion of
- 12 income to be used to arrive at the amount of Missouri taxable income. The investment or
- 13 reinvestment of its own funds, or sale of any such investment or reinvestment, shall not be
- 14 considered as sales or other business transacted for the determination of said fraction;
- 15 (c) For the purposes of this subdivision, a transaction involving the sale of tangible property
- 16 is:
- 17 a. "In this state" if the purchaser's destination point is in this state;
- 18 b. Not "in this state" if the purchaser's destination point is outside this state;
- 19 (d) For purposes of this subdivision, the purchaser's destination point shall be determined
- 20 without regard to the FOB point or other conditions of the sale and shall not be in this state if the
- 21 purchaser received the tangible personal property from the seller in this state for delivery to the
- 22 purchaser's location outside this state.
- 23 (4) For purposes of this subsection, the following words shall, unless the context otherwise
- 24 requires, have the following meaning:
- 25 (a) "Administration services" include, but are not limited to, clerical, fund or shareholder
- 26 accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial,
- 27 internal auditing, legal and tax services performed for an investment company;
- 28 (b) "Affiliate", the meaning as set forth in 15 U.S.C. Section 80a-2(a)(3)(C), as may be
- 29 amended from time to time;
- 30 (c) "Distribution services" include, but are not limited to, the services of advertising,
- 31 servicing, marketing, underwriting or selling shares of an investment company, but, in the case of
- 32 advertising, servicing or marketing shares, only where such service is performed by a person who is,
- 33 or in the case of a closed end company, was, either engaged in the services of underwriting or selling
- 34 investment company shares or affiliated with a person that is engaged in the service of underwriting
- 35 or selling investment company shares. In the case of an open end company, such service of
- 36 underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15
- 37 U.S.C. Section 80a-15(b), as from time to time amended;
- 38 (d) "Investment company", any person registered under the federal Investment Company Act
- 39 of 1940, as amended from time to time, (the act) or a company which would be required to register
- 40 as an investment company under the act except that such person is exempt to such registration
- 41 pursuant to Section 80a-3(c)(1) of the act;
- 42 (e) "Investment funds service corporation" includes any corporation or S corporation doing
- 43 business in the state which derives more than fifty percent of its gross income in the ordinary course
- 44 of business from the provision directly or indirectly of management, distribution or administration
- 45 services to or on behalf of an investment company or from trustees, sponsors and participants of
- 46 employee benefit plans which have accounts in an investment company. An investment funds
- 47 service corporation shall include any corporation or S corporation providing management services as
- 48 an investment advisory firm registered under Section 203 of the Investment Advisors Act of 1940, as

1 amended from time to time, regardless of the percentage of gross revenues consisting of fees from  
 2 management services provided to or on behalf of an investment company;

3 (f) "Management services" include but are not limited to, the rendering of investment advice  
 4 directly or indirectly to an investment company making determinations as to when sales and  
 5 purchases of securities are to be made on behalf of the investment company, or the selling or  
 6 purchasing of securities constituting assets of an investment company, and related activities, but only  
 7 where such activity or activities are performed:

8 a. Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C.  
 9 Section 80a-15(a), as from time to time amended;

10 b. For a person that has entered into such contract with the investment company; or

11 c. For a person that is affiliated with a person that has entered into such contract with an  
 12 investment company;

13 (g) "Qualifying sales", gross income derived from the provision directly or indirectly of  
 14 management, distribution or administration services to or on behalf of an investment company or  
 15 from trustees, sponsors and participants of employee benefit plans which have accounts in an  
 16 investment company. For purposes of this section, gross income is defined as that amount of income  
 17 earned from qualifying sources without deduction of expenses related to the generation of such  
 18 income;

19 (h) "Residence", presumptively the fund shareholder's mailing address on the records of the  
 20 investment company. If, however, the investment company or the investment funds service  
 21 corporation has actual knowledge that the fund shareholder's primary residence or principal place of  
 22 business is different than the fund shareholder's mailing address such presumption shall not control.  
 23 To the extent an investment funds service corporation does not have access to the records of the  
 24 investment company, the investment funds service corporation may employ reasonable methods to  
 25 determine the investment company fund shareholder's residence.

26 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an  
 27 investment funds service corporation, or S corporation, shall be considered wholly in this state only  
 28 to the extent that the fund shareholders of the investment companies, to which the investment funds  
 29 service corporation, or S corporation, provide services, are resided in this state. Wholly in this  
 30 state qualifying sales of an investment funds service corporation, or S corporation, shall be  
 31 determined as follows:

32 (a) By multiplying the investment funds service corporation's total dollar amount of  
 33 qualifying sales from services provided to each investment company by a fraction, the numerator of  
 34 which shall be the average of the number of shares owned by the investment company's fund  
 35 shareholders resided in this state at the beginning of and at the end of the investment company's  
 36 taxable year that ends with or within the investment funds service corporation's taxable year, and the  
 37 denominator of which shall be the average of the number of shares owned by the investment  
 38 company's fund shareholders everywhere at the beginning of and at the end of the investment  
 39 company's taxable year that ends with or within the investment funds service corporation's taxable  
 40 year;

41 (b) A separate computation shall be made to determine the wholly in this state qualifying  
 42 sales from each investment company. The qualifying sales for each investment company shall be  
 43 multiplied by the respective percentage of each fund, as calculated pursuant to paragraph (a) of this  
 44 subdivision. The product of this equation shall result in the wholly in this state qualifying sales. The  
 45 qualifying sales for each investment company which are not wholly in this state will be considered  
 46 wholly without this state;

47 (c) To the extent an investment funds service corporation has sales which are not qualifying  
 48 sales, those nonqualified sales shall be apportioned to this state based on the methodology utilized by

1 the investment funds service corporation without regard to this subdivision.

2 3. Any corporation described in subdivision (1) of subsection 1 of section 143.441 organized  
3 in this state or granted a permit to operate in this state for the transportation or care of passengers  
4 shall report its gross earnings within the state on intrastate business and shall also report its gross  
5 earnings on all interstate business done in this state which report shall be subject to inquiry for the  
6 purpose of determining the amount of income to be included in Missouri taxable income. The  
7 previous sentence shall not apply to a railroad.

8 4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall include  
9 in its Missouri taxable income all income arising from all sources in this state and all income from  
10 each transportation service wholly within this state, from each service where the only lines of such  
11 corporation used are those in this state, and such proportion of revenue from each service where the  
12 facilities of such corporation in this state and in another state or states are used, as the mileage used  
13 over the lines of such corporation in the state shall bear to the total mileage used over the lines of  
14 such corporation. The taxpayer may elect to compute the portion of income from all sources within  
15 this state in the following manner:

16 (1) The income from all sources shall be determined as provided;

17 (2) The amount of investment of such corporation on December thirty-first of each year in  
18 this state in fixed transportation facilities, real estate and improvements, plus the value on December  
19 thirty-first of each year of any fixed transportation facilities, real estate and improvements in this  
20 state leased from any other railroad shall be divided by the sum of the total amount of investment of  
21 such corporation on December thirty-first of each year in fixed transportation facilities, real estate  
22 and improvements, plus the value on December thirty-first of each year, of any fixed transportation  
23 facilities, real estate and improvements leased from any other railroad. Where any fixed  
24 transportation facilities, real estate or improvements are leased by more than one railroad, such  
25 portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental  
26 paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the  
27 proportion to be used to arrive at the amount of Missouri taxable income.

28 5. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall include  
29 in its Missouri taxable income one-half of the net income from the operation of a bridge between this  
30 and another state. If any such bridge is owned or operated by a railroad corporation or corporations,  
31 or by a corporation owning a railroad corporation using such bridge, then the figures for operation of  
32 such bridge may be included in the return of such railroad or railroads; or if such bridge is owned or  
33 operated by any other corporation which may now or hereafter be required to file an income tax  
34 return, one-half of the income or loss to such corporation from such bridge may be included in such  
35 return by adding or subtracting same to or from another net income or loss shown by the return.

36 6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall include  
37 in its Missouri taxable income all income arising from all sources within this state. Income shall  
38 include revenue from each telephonic or telegraphic service rendered wholly within this state; from  
39 each service rendered for which the only facilities of such corporation used are those in this state;  
40 and from each service rendered over the facilities of such corporation in this state and in other state  
41 or states, such proportion of such revenue as the mileage involved in this state shall bear to the total  
42 mileage involved over the lines of said company in all states. The taxpayer may elect to compute the  
43 portion of income from all sources within this state in the following manner:

44 (1) The income from all sources shall be determined as provided;

45 (2) The amount of investment of such corporation on December thirty-first of each year in  
46 this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be  
47 divided by the amount of the total investment of such corporation on December thirty-first of each  
48 year in telephonic or telegraphic facilities, real estate and improvements. The income of the

1 taxpayer shall be multiplied by fraction thus obtained to determine the proportion to be used to arrive  
2 at the amount of Missouri taxable income.

3 7. From the income determined in subsections 2, 3, 4, 5 and 6 of this section to be from all  
4 sources within this state shall be deducted such of the deductions for expenses in determining  
5 Missouri taxable income as were incurred in this state to produce such income and all losses actually  
6 sustained in this state in the business of the corporation.

7 8. If a corporation derives only part of its income from sources within Missouri, its Missouri  
8 taxable income shall only reflect the effect of the following listed deductions to the extent applicable  
9 to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to section  
10 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating loss  
11 allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall be  
12 determined by multiplying the amount that would otherwise affect Missouri taxable income by the  
13 ratio for the year of the Missouri taxable income of the corporation for the year divided by the  
14 Missouri taxable income for the year as though the corporation had derived all of its income from  
15 sources within Missouri. For the purpose of the preceding sentence, Missouri taxable income shall  
16 not reflect the listed deductions.

17 9. Any investment funds service corporation organized as a corporation or S corporation  
18 which has any shareholders resided in this state shall be subject to Missouri income tax as  
19 provided in this chapter."; and  
20

21 Further amend said bill by amending the title, enacting clause, and intersectional references  
22 accordingly.